

A photograph of a legal document page. In the upper right corner, there is a blue ink stamp that reads "Case 3-19-CV". To the left of the stamp, the letters "JFL" are handwritten in large, bold, black ink. Below "JFL", the words "IN THE FOR TH" are printed in a bold, sans-serif font. A diagonal line runs from the bottom left towards the center of the stamp. To the left of this line, the numbers "17400" are handwritten in black ink.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EUGENE HOLZER,  
*Plaintiff,*  
v.  
PARTY CITY HOLDCO, INC.  
*Defendant.*

## **COMPLAINT AND JURY DEMAND**

**FILED**

NOV 21 2019

KATE BARKMAN, Clerk  
By \_\_\_\_\_ Dep. Clerk

## I. PRELIMINARY STATEMENT:

1. This is an action for an award of damages, attorneys' fees and other relief on behalf of the Plaintiff, Eugene Holzer ("Plaintiff Holzer"), a former employee of the Defendant, Party City Holdco, Inc. ("Defendant") who has been harmed by the Defendant's discriminatory employment practices.

2. This action is brought under the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq. (“ADEA”), and the Pennsylvania Human Relations Act, 43 P.S. §951 et seq (“PHRA”).

## **II. JURISDICTION AND VENUE:**

3. The jurisdiction of this Court is invoked, and venue is proper in this district, pursuant to 28 U.S.C. §§1331 and 1333, as Plaintiff Holzer's claims are substantively based on the ADEA.

4. The supplemental jurisdiction of this Court is invoked pursuant to 28  
U.S.C. §1337 to consider Plaintiff Holzer's claims arising under the PHRA.

5. All conditions precedent to the institution of this suit have been fulfilled and Plaintiff Holzer has satisfied all other jurisdictional prerequisites to the maintenance of this action. On August 26, 2019, a Notice of Right to Sue was issued by the Equal Employment Opportunity Commission (“EEOC”) and this action has been filed within ninety (90) days of receipt of said notice.

**III. PARTIES:**

6. Plaintiff, Eugene Holzer (“Plaintiff Holzer”), is a fifty-six (56) year old individual and citizen of the Commonwealth of Pennsylvania, residing therein at 1090 Greenleaf Drive, Bethlehem, Pennsylvania 18017.

7. Defendant, Party City Holdco, Inc. (“Defendant”), is a corporation maintaining a place of business located at 601 Baltimore Pike, Springfield, Pennsylvania 19064.

8. At all times relevant hereto, Defendant was acting through its agents, servants, and employees, who were acting within the scope of their authority, course of employment, and under the direct control of the Defendant.

9. At all times material herein, the Defendant has been a “person” and “employer” as defined by the ADEA and PHRA, and has been, and is, subject to the provisions of each said Act.

**IV. STATEMENT OF FACTS:**

10. Plaintiff Holzer, a fifty-six (56) year old individual, was employed by Defendant from on or about July 30, 2018 until on or about January 15, 2019, the date his termination.

11. By way of background, Plaintiff Holzer was employed by Party City Management Company (“PC Mgmt. Co.”), from on or about May 15, 1995 until on or about July 26, 2018.

12. Plaintiff Holzer began his employment with PC Mgmt. Co. in the position of Store Manager and earned two (2) promotions during his 24 year tenure of employment. At the time of his separation, Plaintiff Holzer held the position of Director of Operations/District Manager.

13. In or about February of 2018, Plaintiff Holzer learned from Phil Nasuti (“Nasuti”), Owner, PC Mgmt. Co., that he was considering the sale of all 16 franchise stores under PC Mgmt. Co.’s ownership to Defendant.

14. Thereafter, in or about May of 2018, Plaintiff Holzer learned from Michael Bush (“Bush”), Controller, PC Mgmt. Co., that Nasuti had decided to move forward with the sale of the franchise stores. However, Bush assured Plaintiff Holzer that his employment was secure and that he would continue his employment with Defendant following said sale.

15. In or about July of 2018, during a corporate meeting attended by Nasuti, Bush, and Michael Brand (“Brand”), Co-Owner, Plaintiff Holzer was again assured that his employment would continue with Defendant.

16. On or about July 25, 2018, mere days prior to the sale of PC Mgmt. Co., Plaintiff Holzer learned from Ed Roldan (“Roldan”), Senior Manager, that Defendant had replaced him in his position as District Manager with Danielle Sundermeier

(“Sundermeier”), a significantly less experienced, less qualified individual in her thirties (30s).

17. Despite Defendant’s assurances that Plaintiff Holzer would continue in his position following the sale, Defendant instead hired Plaintiff Holzer to the seasonal and temporary position of Senior Operations Manager.

18. Upon learning of the drastic change in position, Plaintiff Holzer attempted to contact Nasuti, Bush, and Brand to obtain an explanation. However, none of the aforesaid individuals replied.

19. The following day, Justin Charpentier (“Charpentier”), Corporate Employee, notified Plaintiff Holzer that his new position he would not be eligible for employee benefits. Charpentier further stated that Defendant could retain Plaintiff Holzer beyond January should a position be available.

20. Thereafter, Plaintiff Holzer made numerous efforts to obtain permanent employment with Defendant however Defendant refused to afford Plaintiff Holzer any interviews for a permanent position.

21. On or about January 15, 2019, Defendant terminated Plaintiff Holzer’s employment.

22. Significantly, the only individuals employed in management roles with PC Mgmt. Co. who were not offered permanent positions with Defendant were Plaintiff Holzer, age fifty-five (55), and Daniel Dodd (“Dodd”), age fifty-eight (58).

23. Plaintiff Holzer believes and avers that Defendant’s articulated reason for failing to hire him for a permanent position and terminating his employment was

pretextual and that Defendant actually terminated and failed to hire him because of his age (55).

**COUNT I**  
**(ADEA - Age Discrimination)**  
**Plaintiff Holzer v. Defendant**

24. Plaintiff Holzer incorporates by reference paragraphs 1 through 23 of this Complaint as though fully set forth at length herein.

25. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Holzer to discrimination on the basis of his age, and in knowing or showing reckless disregard for whether its conduct was prohibited by statute, constituted willful violations of the ADEA.

26. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Holzer sustained permanent and irreparable harm, resulting in the loss of his employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

**COUNT II**  
**(PHRA - Age Discrimination)**  
**Plaintiff Holzer v. the Defendant**

27. Plaintiff Holzer incorporates by reference paragraphs 1 through 26 of this Complaint as though fully set forth at length herein.

28. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Holzer to discrimination on the basis of his age, constituted violations of the PHRA

29. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Holzer sustained permanent and irreparable harm, resulting in the loss of his employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

30. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Holzer suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

**PRAYER FOR RELIEF**

31. Plaintiff Holzer incorporates by reference paragraphs 1 through 30 of this Complaint as though fully set forth at length herein.

**WHEREFORE**, Plaintiff Holzer requests that this Court enter judgment in his favor and against the Defendant, and Order that:

- a. Defendant compensate Plaintiff Holzer with a rate of pay and other benefits and emoluments of employment to which he would have been entitled had he not been subjected to unlawful discrimination;
- b. Defendant compensate Plaintiff Holzer with an award of front pay, if appropriate;
- c. Defendant pay to Plaintiff Holzer punitive damages, liquidated damages, compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses as allowable;

- d. Defendant pay to Plaintiff Holzer pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;
- e. The Court award such other relief as is deemed just and proper.

**JURY DEMAND**

Plaintiff Holzer demands trial by jury.

SIDNEY L. GOLD & ASSOC., P.C.

By:

  
/s/ Sidney L. Gold, Esquire SG1387  
SIDNEY L. GOLD, ESQUIRE  
I.D. No.: 21374  
1835 Market Street, Suite 515  
Philadelphia, PA 19103  
(215) 569-1999  
**Attorneys for Plaintiff**

DATED: November 21, 2019

JS 44 (Rev 06/17)

JFL

## CIVIL COVER SHEET

5:19-cv-5470

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

## I. (a) PLAINTIFFS

EUGENE HOLZER

(b) County of Residence of First Listed Plaintiff NORTHAMPTON  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sidney L Gold, Esquire  
Sidney L Gold & Assoc., P.C.  
1835 Market St, Suite 515 Phila, PA 19103 215-569-1999

## DEFENDANTS

PARTY CITY HOLDCO, INC

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

DELAWARE

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF	
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 365 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 371 Truth in Lending	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 372 Fair Labor Standards Act	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 861 H.E.A. (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 373 Labor/Management Relations	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 374 Railway Labor Act	<input type="checkbox"/> 386 SSI/Title XVI	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 375 Family and Medical Leave Act	<input type="checkbox"/> 390 Other Labor Litigation	<input type="checkbox"/> 864 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus.	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer w/Disabilities Employment	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer w/Disabilities Other	<b>OTHER</b>		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement		

## V. ORIGIN (Place an "X" in One Box Only)

- |   |   |  |   |  |  |   |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

ADEA, PHRA

Brief description of cause

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDLR RULE 23, F.R.C.P.

DEMAND \$

150,000.00

in excess

CHECK YES only if demanded in complaint  
JURY DEMAND:  Yes  NoVIII. RELATED CASE(S)  
IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

NOV 21 2019

DATE

SIGNATURE OF ATTORNEY OF RECORD

11/21/2019

/S/ SIDNEY L GOLD, ESQUIRE

FOR OFFICE USE ONLY

JUL

MAG JUDGE

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

**JFL**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**19****5470**

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff \_\_\_\_\_ 1090 Greenleaf Drive, Bethlehem, PA 18017

Address of Defendant \_\_\_\_\_ 601 Baltimore Pike, Springfield, PA 19064

Place of Accident, Incident or Transaction \_\_\_\_\_ 601 Baltimore Pike, Springfield, PA 19064

## RELATED CASE, IF ANY.

Case Number \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated \_\_\_\_\_

Civil cases are deemed related when Yes is answered to any of the following questions.

- 1 Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes  No
- 2 Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes  No
- 3 Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes  No
- 4 Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes  No

I certify that, to my knowledge, the within case  is  is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE 11/21/2019

/s/ Sidney L. Gold, Esq.

21374

Attorney-at-Law / Pro Se Plaintiff

Attorney ID # (if applicable)

## CIVIL: (Place a ✓ in one category only)

## A Federal Question Cases

- 1 Indemnity Contract, Marine Contract, and All Other Contracts  
 2 FELA  
 3 Jones Act-Personal Injury  
 4 Antitrust  
 5 Patent  
 6 Labor-Management Relations  
 7 Civil Rights  
 8 Habeas Corpus  
 9 Securities Act(s) Cases  
 10 Social Security Review Cases  
 11 All other Federal Question Cases  
*(Please specify)*

## B Diversity Jurisdiction Cases

- 1 Insurance Contract and Other Contracts  
 2 Airplane Personal Injury  
 3 Assault, Defamation  
 4 Marine Personal Injury  
 5 Motor Vehicle Personal Injury  
 6 Other Personal Injury *(Please specify)*  
 7 Products Liability  
 8 Products Liability Asbestos  
 9 All other Diversity Cases  
*(Please specify)*

## ARBITRATION CERTIFICATION

*(The effect of this certification is to remove the case from eligibility for arbitration.)*

I, SIDNEY L. GOLD, ESQUIRE, counsel of record or pro se plaintiff, do hereby certify

Pursuant to Local Civil Rule 53.2, § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs

Relief other than monetary damages is sought

DATE 11/21/2019

/s/ Sidney L. Gold, Esq.

21374

Attorney-at-Law / Pro Se Plaintiff

Attorney ID # (if applicable)

NOV 21 2019

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

JFL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**  
**CASE MANAGEMENT TRACK DESIGNATION FORM**

19

5470

EUGENE HOLZER

CIVIL ACTION

v  
PARTY CITY HOLDCO, INC

OLYC

AT

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants (See § 1 03 of the plan set forth on the reverse side of this form) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U S C § 2241 through § 2255 ( )
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2 ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases ) ( )
- (f) Standard Management -- Cases that do not fall into any one of the other tracks ( )

11/21/2019  
Date

*sl*  
/s/ Sidney L. Gold, Esq.  
Attorney-at-law

PLAINTIFF  
Attorney for

(215) 569-1999

(215) 569-3870

sgold@discrimlaw.net

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

NOV 21 2019